



**Livestock and Seed Program
Audit, Review, and Compliance Branch
Quality System Audit Report**

Applicant: Maryland Department of Agriculture
Program/Audit Type: National Organic Program - Accreditation for Organic Certification
Organizations - On-site Audit
Location(s): Annapolis, Maryland and Gambrills, Maryland
Audit Date(s): April 29 – 30, 2003
Audit File Number: NP3119AA CA
Action Required: Yes
Auditor(s): Beth Hayden, Auditor
Contact: Valerie Frances, Organic Certification Program Director

AUDIT ACTIVITIES

On June 25 2003, a representative of the USDA, Audit, Review, and Compliance (ARC) Branch reviewed the corrective actions submitted to address the continuous improvement points (CIPs) identified during the on-site evaluation of the Maryland Department of Agriculture's Organic Certification Program (Maryland), Annapolis, MD, on April 29 –30, 2003. The purpose of the audit was to assess Maryland's compliance to the USDA, AMS 7 CFR Part 205, National Organic Program (NOP), Final Rule.

OBSERVATIONS

Maryland submitted a point-by-point description of their plan to resolve the CIPs that were identified during the on-site evaluation. Also submitted were the Quality Manual, rule-based certification checklists, a revised certificate and a copy of the Inspector Final Contract.

FINDINGS

The following noncompliance was cleared in corrective actions report NP2255DA, but not implemented.

NP2255DA.NC1 - § 205.661 - Not Cleared - Policy did not include the provision for investigating complaints correctly. *Maryland submitted a complaints policy as part of its accreditation audit. However, when asked during the onsite evaluation about the complaints policy, it became clear that the policy was not being implemented.* **Submitted corrective action:** No information was provided to demonstrate how Maryland documents complaints and follows up on complaints.

The following non-compliances were discovered during the onsite evaluation.

NP3119AA.NC1 - § 205.404 Granting certification – Not Cleared - (a) Within a reasonable time after completion of the initial on-site inspection, a certifying agent must review the on-site inspection report, the results of any analyses for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this part and that the applicant is able to conduct operations in accordance with the plan, the agent shall grant certification. *The forms used by Maryland for the organic production and handling system plans and the inspection reports contain questions that would constitute additional requirements. In addition, there is a heavy reliance upon the OMRI List rather than the NOP. There is no clear evidence that recommendations or decisions to grant certification are based solely on the NOP regulations.* **Submitted corrective action:** The certification checklists submitted by Maryland are comprehensive and do not

contain any additional requirements. Reliance on the OMRI List was not addressed. Maryland has not demonstrated how material use for crop and livestock production will be addressed in making certification decisions.

NP3119AA.NC2 - § 205.404 Granting certification – Not Cleared - (c) Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked. *The current Maryland certificate includes an annual inspection date. It has been determined that this date could be construed as a renewal date, and therefore, is not acceptable.*

Submitted corrective actions: The certificate provided as an example is not consistent with the CIP. It includes a "Certified Since" date that is not explained.

§ 205.501 General requirements for accreditation. (a) A private or governmental entity accredited as a certifying agent under this subpart must:

NP3119AA.NC6 – Cleared - (4) Use a sufficient number of adequately trained personnel, including inspectors and certification review personnel, to comply with and implement the organic certification program. *The MOCAC, that makes recommendations for certification, is not trained to verify compliance to the NOP.* **Submitted corrective actions:** The revised Maryland Quality Manual no longer states that MOCAC provides recommendations for certification. The MOCAC will receive NOP training that is required since they are responsible for Maryland's annual Certification Program review.

NP3119AA.NC7 – Not Cleared - (5) Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned. *There are no criteria for the selection of MOCAC members that establishes their qualifications to make certification recommendations.* **Submitted corrective actions:** Under the revised Maryland regulations, the responsibility for making decisions lies solely with the Secretary. A copy of the revised regulations was not provided. No evidence of the Secretary's ability to make these decisions has been provided, nor has a signed disclosure of interest statement or confidentiality agreement.

§ 205.504 Evidence of expertise and ability – Not Cleared - A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information... (a)(2) The name and position description of all personnel to be used in the certification operation... *A position description was not available for the MOCAC members.* **Submitted corrective actions:** A position description for the Secretary, who is now solely responsible for certification decisions, was not submitted.

(NP3119AA.NC8) – Not Cleared - (6) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services. *While Maryland has a procedure for conducting annual performance evaluations for inspectors and MOCAC members, it does not follow the procedures.* **Submitted corrective actions:** The Maryland corrective action provides a procedure for conducting a performance evaluation of the MOCAC members; however, there is no need for this review since they no longer make recommendations for certification. A performance evaluation of the Secretary with regard to making certification decision is required.

NP3119AA.NC9 – Not cleared -- (10) Maintain strict confidentiality with respect to its clients. *There are no confidentiality statements signed by the Program Director, the inspectors or the MOCAC members.* **Submitted corrective actions:** Copies of the signed statements were not provided to verify compliance.

(11) Prevent conflicts of interest by:

NP3119AA.NC10 – Not cleared -- (iii) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected. *Accepting gifts or favors is not addressed with the inspectors.* **Submitted corrective actions:** Copies of signed statements and training records were not provided to verify compliance.

NP3119AA.NC3 – Not cleared - (iv) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification. *Giving advice and consulting is not addressed with the inspectors, the MOCAC members or the Program Director. The Program Director frequently includes “recommendations” in certification letters that could be construed as providing information that may overcome a barrier to certification.* **Submitted corrective actions:** Copies of letters, pamphlets, and guidance were not submitted to verify compliance.

NP3119AA.NC5 - § 205.642 Fees and other charges for certification – Not cleared - The fee schedule must explain which fee amounts are nonrefundable and at what stage during the certification process fees become nonrefundable. *Information provided to applicants or certified operations does not explain that no part of Maryland’s fee is refundable.* **Submitted corrective actions:** A copy of the revised fee schedule was not provided. It is not clear how applicants and certified operations are informed when the fees become non-refundable.

NP3119AA.NC4 - § 205.662 Noncompliance procedure for certified operations – Not cleared - b) Resolution. When a certified operation demonstrates that each noncompliance has been resolved, the certifying agent or the State organic program's governing State official, as applicable, shall send the certified operation a written notification of noncompliance resolution. *There is no procedure in place or way to verify that all non-compliances are addressed within the time limit stated in the notification letters sent by the Program Director. Furthermore, the notification letters reference the OMRI List or the Maryland Publication entitled “Navigating the NOP”, rather than addressing the NOP regulations.* **Submitted corrective actions:** Copies of letters and examples of a working system were not submitted in order verify compliance.

RECOMMENDATIONS

I recommend that the Maryland program be removed from the Hold Point status based on the planned corrective actions. Evidence that the corrective actions are being implemented should be submitted to within 60 days to verify that the plans are being implemented. A follow-up site evaluation should be conducted to verify that the program is operating in compliance to the NOP regulations.